

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-vs-

THOMAS NARY,

Defendant.

**STATEMENT OF THE DEFENSE
WITH RESPECT TO PRESENTENCE
INVESTIGATION REPORT**

Case No. 21-cr-06041-EAW

The defendant, Thomas Nary, through his attorney, Mark A. Foti, respectfully submits this statement with respect to the Presentence Investigation Report for this Court's consideration:

Presentence Investigation Report

We hereby incorporate as part of sentencing all parts of the Revised Presentence Investigation Report (“PSR”) filed on March 8, 2022, at Docket Entry 93.¹

The PSR at Docket Entry 93 includes several updates to the original Presentence Investigation Report filed on August 31, 2021, at Docket Entry Dkt. # 83, and a revised Presentence Investigation Report filed on December 16, 2021, at Docket Entry Dkt. # 90.

Specifically, the revisions include the amendments to the factual allegations included in the original PSR, including notation of some of the allegations that are denied by Mr. Nary. The

¹ The revisions to the PSR include several updates to the original Presentence Investigation Report filed on August 31 (Dkt. # 83) that was filed in December 2018 including updates to employment and other relevant information based on sources including a recent interview with Mr. Downey.

revisions also include a stipulated estimated loss figure resolving an issue that was left open in the original plea agreement.

Following the revisions to the PSR, the defendant advances no further objections to the PSR. Although there are a substantial amount of allegations that the defendant denies or has no knowledge of, in most instances that position was noted in the PSR filed at Docket Entry 93, and where appropriate, the defense's position is further addressed in the Sentencing Statement and Memorandum. *See generally* Dkt. # 98.

Other Submissions

The defense has submitted a Sentencing Statement and Memorandum at Docket Entry 98

The defense has also submitted letters of support at Docket Entry 102.

The sentencing proceedings in this matter are scheduled for October 28, 2022. The defense will seek to be heard further at the sentencing proceedings including a statement that will be delivered by Thomas Nary.

Dated: October 26, 2022
Rochester, NY

Respectfully submitted,

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